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<b>DOCKET</b>	
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Re: 04 IEP 1K Committee Draft Document Hearings  
Comments of Center for Biological Diversity on draft 2005 IEPR

Dear Commissioners:

The Center for Biological Diversity (CBD) submits the following comments concerning the draft 2005 Integrated Energy Policy Report.

As the Commission is aware, CBD is actively involved in efforts to reduce avian mortality from wind turbines, particularly from the turbines at the Altamont Pass Wind Resource Area in Alameda and Contra Costa Counties. We have repeatedly praised the Commission for its far-sighted work in establishing and funding research into avian mortality caused by wind turbines and power lines. In this area, as in so many other areas of its work, the Commission has been the national leader and has set the standard by which other state and federal agencies are judged.

We are deeply concerned, however, about one passage of the draft 2005 Integrated Energy Policy Report. The draft report contains the following paragraphs discussing the research the Commission has sponsored at the Altamont Pass Wind Resource Area:

“The *2004 Energy Report Update* also recommended using findings from the Energy Commission’s avian mortality studies to evaluate permits for new and repowered wind turbine facilities. Since publication of that report, an extremely polarized debate has emerged between the wind industry, the Energy Commission staff and consultants, and environmentalists who believe there have been inadequate efforts to reduce the number of birds

killed by wind turbines in the Altamont Pass Wind Resource Area. A focal point of that debate has been the statistical reliability of the research cited in the *2004 Energy Report Update* and the subsequent use of that research by Energy Commission staff and consultants.

“The Energy Commission believes that the earlier research, *Developing Methods to Reduce Bird Mortality in the Altamont Pass Wind Resource Area*, represents an important initial effort to craft a methodology to prescribe mitigation measures, but that it should not be misused to form the sole basis for such mitigation measures. Inadequate access to certain turbines, time lapses between surveys, length of survey period, and various extrapolation techniques deprive it of the evidentiary value which the Energy Commission would require as the basis for mitigation measures in a power plant siting case. The scientific value of ongoing Energy Commission research into avian mortality prevention should not be jeopardized by misapplication of what are essentially experimental results.”

Draft 2005 Integrated Energy Policy Report at 102.

Unfortunately, the draft report does not carefully explain the nature of the August 2004 study *Developing Methods to Reduce Bird Mortality in the Altamont Pass Wind Resource Area* (“the August 2004 Study”), which had at least four key aspects. First, the August 2004 Study conducted surveys for dead birds and estimated existing mortality rates from this data. Second, the August 2004 Study conduct observations of the behavior and flight patterns of living birds. Third, the August 2004 Study conducted statistical tests of the association, or lack thereof, between various variables (e.g., turbine location, turbine size, prey abundance, bird behavior and flight patterns) and raptor fatalities. Fourth, the August 2004 Study proposed various mitigation measures based on the statistical association models it established. The draft report does not carefully distinguish between these four separate aspects of the August 2004 Study, i.e., the mortality estimates, the observational data of bird behavior and flight patterns, the statistical fatality association models, and the mitigation recommendations arising out of those association models. Moreover, it is not accurate to describe the August 2004 Study as producing “experimental results,” as it was an observational study and did not, and was not intended to, conduct controlled experiments.

The draft report’s suggestion that the August 2004 Study should not be used for designing mortality reduction measures is not well considered. It ignores the fact that the turbines at the Altamont Pass Wind Resource Area are killing raptors *now*, just as they have being killing raptors without any mortality reduction measures for the past 20 years. It also ignores the fact that Alameda County is issuing new

13-year permits *now* for the existing turbines, and is determining *now* what mortality reduction measures to impose as permit conditions for the next 13 years. Like it or not, those decisions are being made *now*, and it is not wise public policy to suggest, as the draft report seems to, that the mortality reduction measures included in the permit *not* be based on the best available science. Altamont Pass is the most-studied wind power facility in the world and the August 2004 Study is by far the most in-depth study of it or any other wind power facility. The only alternative to using the August 2004 Study as the basis for Alameda County's decision as to what mortality reduction measures it should impose at this time would be to use instead earlier, less-comprehensive research that is now 10 to 15 years old. That would make no sense.

The draft report analogizes using the August 2004 Study as a basis for selecting mortality reduction measures for existing wind turbines to the process of permitting a new power plant. The draft report's analogy is inapposite. First, in the case of a new power plant, if the Commission is dissatisfied with the current state of scientific information submitted by the applicant and decides to require further studies, it does not issue the permit until the new studies are completed. Thus, no adverse environmental impact would occur until the studies were completed. Here, of course, these are existing wind turbines already in operation, killing large numbers of raptors and other birds; to delay imposing mitigation measures in favor of "more study" is not to avoid any environmental impact but instead is to allow ongoing environmental impacts to continue unabated as they have for 20 years. Second, in the case of a new power plant, it is the applicant that is required to conduct whatever studies of its environmental impacts the Commission considers necessary. Here, the wind turbine operators at Altamont Pass have *never* done any scientific study of either how many birds they have been killing or what measures can effectively reduce their mortality. Instead, they sit back and criticize the work of the Commission and others in an attempt to delay and cast doubt on efforts to finally begin the long-overdue process of requiring them to mitigate their environmental impacts.

The draft report also inaccurately describes the nature of the debate over what mortality reduction measures should be imposed at Altamont Pass as conditions of the permits for the existing turbines. At bottom it is not a scientific debate over the data of the August 2004 Study and the proper statistical interpretation of that data. There is no credible dispute that significant avian mortality is occurring from the Altamont Pass wind turbines, and has been occurring for the past 20 years. Rather, the debate is a public policy debate over what magnitude of mortality reduction measures (principally seasonal and permanent turbine shutdowns) should be imposed by the permits and how quickly those measures should be implemented. There is general agreement among the wind industry,

Energy Commission staff and consultants, Alameda County, and the environmental community about the magnitude of mortality reductions that different levels of permanent and seasonal turbine shutdowns are estimated to yield. The debate instead is over what level of shutdowns should be required as a matter of policy.

Finally, there is no basis for the draft report's assertion that the August 2004 Study lacks "evidentiary value." The August 2004 Study is a scientifically sound, in-depth, long-term, extremely detailed study that represents an enormous advance over the prior state of the art in avian mortality studies at Altamont Pass. It has been of great value to all who are concerned about avian mortality at the Altamont Pass Wind Resource Area, including the wind industry, Alameda County, the United States Fish & Wildlife Service, the Department of Fish and Game, and the environmental community. The fact that, as the August 2004 Study itself carefully points out, more remains to be learned about avian mortality from wind turbines does nothing to diminish the value of the study or the high scientific skill and dedication of the Commission consultants and staff who prepared it.

If the language of the draft report remains as it is now, it may have substantial unintended consequences on the PIER program and other scientific research conducted by the Commission. The time-honored and accepted manner by which a scientist questions the conclusions of a scientific study is to conduct a new, independent study to confirm or disprove the conclusions of the previous study. It is not to lobby the organization that funded the previous study in an attempt to have it disown that previous study. In the future, respected scientists and consultants will be hesitant to work for the Commission if they know that it may end up unfairly disparaging the quality of their work and their scientific integrity.

Respectfully submitted,

s/

Richard R. Wiebe